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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N. W., Room 222
Washington, D. C. 20554

Ex Parte Submission
Re: CC Docket No. 98-4

Dear Ms. Salas:

This letter is written on behalf of United Utilities, Inc. ("United').

At recent meetings in connection with the above-referenced matter, issues were raised as to the impact on universal service in the Alaska Bush if this Commission were to preempt the Alaska Public Utilities Commission's ("APUC's") restriction on the installation of duplicate MTS earth stations in Bush Villages.

By way of completing the record on this score, attached you will find copies of a recent filing by United's affiliate, Unicom, Inc., with the APUC. As Unicom's filing makes clear, modification of the APUC facilities restriction is intertwined with other important issues bearing on universal service, such as carrier-of-last resort obligations. See pages 5-8 and 10-15. These issues are under consideration in the proceeding which the APUC is currently conducting.

In addition, it should noted that United is an active member of the Alaska Telephone Association ("ATA"). The ATA recently filed comments with the Commission regarding the matter (copy attached). United fully supports the ATA filing and urges its careful consideration.

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An original and one copy of this letter is supplied for the Docket.

Sincerely,

William K. Keane

William K. Keane

cc: Anita L. Wallgren
Melissa Newman
Eric Bash
Donnajean Ward

Enclosures

Alaska Telephone Association
201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
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David Fauske
President

James Rowe
Executive Director

July 20, 1998

The Honorable William E. Kennard
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

RE: CC Docket No. 98-4
<u>Ex Parte Communication</u>

Dear Mr. Kennard:

This is with reference to the above-captioned matter involving the GCI Communication, Inc. ("GCI") Petition for Preemption of Alaska restrictions on installation of duplicative MTS earth stations in remote Bush Villages.

By way of background, the Alaska Telephone Association represents twenty-two local exchange carriers many of which serve the 150 plus Bush locations where GCI is requesting preemption.

As you may be aware, in 1984, as a result of a lengthy FCC rulemaking, the Commission determined that the earth stations used in Bush Villages for toll interconnect (not private line) services should be owned 50 percent by the certificated LEC and 50 percent by Alascom, Inc. The premise for this holding was a determination to

> avoid[] duplication of earth station facilities needed to provide essential public message telephone service to these small communities when, for economic reasons, mutual exclusivity exists.

<u>Tentative Decision</u> in CC Docket No. 80-584, 92 FCC 2d 736, 756 (1982); <u>accord Memorandum Opinion and Order</u> in CC Docket No. 80-584, FCC 86-69, released February 25, 1986 at ¶5 ("duplicative facilities create[] unnecessary costs to consumers for essential MTS").

Thus, FCC policy mirrors the APUC's rule. This is reflective of the fact that, when it comes to Alaska and its unique conditions, the Commission and the APUC historically have been careful to harmonize policies.

In other words, the GCI Petition is not only a challenge to the APUC rule, but also to the FCC's parallel policy.

In its earlier filings in this matter, the Alaska Telephone Association and others have urged that comity with Alaska militated in favor of allowing the APUC to evaluate the data generated from GCI's Bush Demonstration Project in formulating a successor to the current policy; there was nothing in Section 253 of the Telcom Act (cited by GCI in support of its Petition) which dictated the timing of Commission action on any given preemption petition; and that, to the contrary, Section 253(b) expressly preserves State authority to maintain measures deemed necessary to protect universal service and the public welfare. Commentors further observed that GCI had not shown, indeed had not even alleged, that the APUC's consideration of its request was anything other than a good faith, deliberate effort to come to grips with the difficult issues presented; and that nothing in Section 253 compels a flash-cut from the current policy to a successor policy. Overarching all, parties stressed the risks that GCI's demand for a flash-cut present to the preservation of universal service in these highest of high cost areas for citizens who are among the poorest in the United States -- a concern echoed by the APUC in its earlier studies of this issue. See Order No. 6 in APUC Docket R-90-1 at 7, 11 (outright elimination of the earth station policy posed "considerable risk" threatening "drastically higher" costs and universal service, which effects "it would not be prudent to ignore").

The Alaska Telephone Association would, at this time, like to bring to the Commission's attention a new and important development. When GCI attempted to persuade policymakers to grant it a waiver of the facilities restriction so as to conduct its Demonstration Project, it said:

> The overall objective is to demonstrate that the integrated system developed by GCI can provide high quality, reliable, state-of-the-art telecommunications services to rural Alaska at competitive rates without requiring external subsidies (emphasis added) (GCI Response to Data Request, 8/18/95. p.1, Docket U-95-38).

In what can only be characterized as a significant about-face, GCI now contends that the only way it can undertake service to the Bush is if it receives universal service subsidies! In particular GCI says:

> ...the provision of interexchange service to rural villages should be supported by a universal service fund, with a payment of cents per minute for each minute that originates or terminates in a rural location (APUC Docket R-98-1, GCI Comments, p. 14).

GCI's admission comes on top of AT&T Alascom's own recent requests for financial relief stemming in large measure from GCI's insistence on installing a second MTS earth station in Demonstration Project communities:

> AT&T Alascom's situation is further aggravated by the arrival of competition in the Bush. ...the simultaneous arrival of DAMA and competition in the 56 DAMA demonstration sites has been a "double whammy" for AT&T Alascom's Bush revenues, which were already inadequate. For example, in Village X, AT&T Alascom installed DAMA facilities. In 1997, AT&T Alascom's revenues from Village X declined by $449,000.... In Village Y, AT&T Alascom installed DAMA and suffered a decline of $924,000 in revenue. The DAMA costs for a typical location exceed $200,000 (APUC Docket R-98-1, AT&T Alascom Comments, p.10).
>
> If an effective, competitively neutral system of support for Bush service is not implemented, AT&T Alascom will not be able to afford future improvements to its Bush facilities beyond the DAMA deployment undertaken to date and the deployment of the new satellite scheduled to replace Aurora II.... Its shareholders and ratepayers, however, cannot fairly be asked to be the sole source of financial support.... (APUC Docket R-98-1, AT&T Alascom Comments, p.11).

The bad news is that both GCI and AT&T Alascom are apparently losing money and find it necessary to seek external subsidies. The good news is that the facilities restriction, which is still in place in over 100 other Bush locations, effectively contains the damage brought on by GCI's uneconomic duplication of facilities to the 56 Demonstration sites.

GCI's recent statement amounts to an admission that it is indeed uneconomic to install a second, duplicative MTS earth station in Bush communities. And it amounts to an admission that the Demonstration Project has failed GCI's own test. GCI's position now seems to reduce to a claim that should be able to place additional demands on universal service funds so as to install a second earth station, the functions of which are redundant to the first.

The Alaska Telephone Association urges the Commission to allow the APUC, which is most directly responsible for preserving universal service in the Bush, to complete its work and, in particular, consider changes that might be made in the current policy so as to bring it in harmony with the Telcom Act. Such changes must be made in concert with others such as changes in the carrier-of-last-resort policy which ensures that there will be at least one carrier providing service to these remote Villages. In all events, any policy changes should be carefully coordinated by the two agencies in order to ensure that universal service is preserved in the Bush.

An original and one copy of this letter is supplied for inclusion in the Docket.

Sincerely,

James Rowe

cc: The Honorable Harold Furchtgott-Roth
The Honorable Susan Ness
The Honorable Michael K. Powell
The Honorable Gloria Tristani
The Honorable Frank Murkowski
The Honorable Ted Stevens
Melissa Newman
Kathy Smith
Eric Bash
Donnajean Ward
Anita Wallgren
Thomas Power
Alaska Public Utilities Commission

STATE OF ALASKA
ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman
Alyce A. Hanley
Dwight D. Ornquist
Tim Cook
James M. Posey

In the Matter of the Consideration of the Reform of Intrastate Interexchange Telecommunications Market Structure and Regulations in Alaska)

R-98-1

REPLY COMMENTS OF UNICOM, INC.

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Executive Summary

Comments received from those desiring to compete in the long distance market unanimously agree that AT&T Alascom and GCI have effectively precluded resellers from competing in the Alaskan long distance market. It comes as no surprise that the two dominant/significant carriers have no desire to open the long distance market to resellers by providing long distance services for resale at wholesale rates. Wholesale rate discounts are needed that reflect the customer service and other expenses that the underlying carrier can avoid when a reseller sells its services.

New market entrants also unanimously support the unbundling of the facilities wholesale tariffs of AT&T Alascom and GCI. Without access to unbundled network elements, competitors face the burden of having to purchase facilities that they do not need and having to offer customers an inferior level of service. Carriers need to have the ability to combine network elements with network elements owned or leased by the carrier to provide a complete network to offer services to end users. Also, AT&T Alascom's 1991 facility wholesale tariff needs to be updated to reflect the acquisition of Alascom by AT&T and the many changes that have occurred since that date including the deployment of new technologies and facilities (i.e. DAMA).

Unicom has submitted with its comments draft regulations for resale, unbundled network elements, and a dispute resolution process. These regulations present a workable solution to providing a competitive marketplace. Given the opposition of AT&T Alascom, and the reluctance of GCI, a voluntary, non prescriptive resolution, will not work. Regulations are needed. Unicom is hopeful that its proposed regulations will be carefully considered and substantively adopted.

AT&T Alascom's Comments disclose that GCI's duplication of facilities in bush villages has been a financial nightmare causing AT&T Alascom for the first time to seek external subsidies. Not only is AT&T Alascom seeking external subsidies--so is GCI. GCI informed the Commission that the overall objective of its demonstration project was to show that it could provide service via a duplicative facility at competitive rates without external

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subsidies. GCI also stated that: (1) GCI would not raise rates; and (2) that GCI would bear the financial burden for the project in the event of its failure.

GCI's Bush Demonstration Project has clearly resulted in the uneconomic duplication of facilities, inferior service, and excessive costs. Instead of addressing the real problem, i.e. duplication of facilities and efforts, both AT&T Alascom and GCI want to be bailed out by imposing a surcharge/tax on every state toll call. Provided the FCC does not act prematurely on GCI's petition to remove the facilities restriction, the Commission now has time to address carrier of last resort (COLR) issues and the facilities restriction before the uneconomic duplication of facilities spreads beyond the 56 demonstration sites.

Regarding COLR, Unicom agrees with AT&T Alascom that there must be a more equitable sharing of the financial, if not the operational, responsibility of providing service in high cost areas. A COLR plan is needed that would require the financial participation of all facilities based carriers. The COLR plan would be "competitively neutral" since all facility-based long distance carriers would be required to participate. Carriers should be discouraged from constructing duplicative facilities where they are not warranted. And with a COLR plan there would be no need to impose a surcharge on ratepayers since COLR costs would continue to be recovered, as they are now from interstate and intrastate services, via geographically-averaged rates. Unicom recommends that the Commission direct AT&T Alascom, GCI, and any other carrier desiring to participate, collectively or individually, to submit to the Commission for its consideration a COLR plan that:

1. does not rely on external subsidies.
2. does not undermine geographically averaged rates.
3. advances modern and quality long distance services.
4. utilizes a single facility where it is uneconomic to duplicate facilities.
5. provides for an equitable, pro rata and competitively neutral sharing of financial and operational responsibilities.
6. provides for every community (i.e. every location now having service) to have a COLR.

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7. establishes minimum financial, operating, and safety standards for COLR carriers.

Unicom opposes GCI's efforts to allow discounts in IXC rates if a customer also receives local service from the same provider. Alaska's geography and population cannot sustain reasonably comparable rural/urban rates if long distance carriers are allowed to discriminate based upon where a customer lives. Unicom also opposes GCI's request to eliminate the requirement that all carriers use the same mileage bands and the same time of day rating periods. Requiring the use of identical mileage bands and same time of day rating periods provides a "baseline" standard that benefits consumers and has regulators and competitors working off the same sheet of music.

Unicom recommends that the Commission proceed as follows.

1. Notify the FCC of the latest developments in this proceeding, i.e. that GCI's duplication of bush facilities in 56 villages--GCI's Bush Demonstration Project--has resulted in severe financial losses and that AT&T Alascom and GCI are now both seeking external subsidies. A major objective of the demonstration project was to prove that duplicative facilities could be installed in the bush at competitive rates without having to rely on external subsidies. By GCI's own standards, the demonstration project has failed. The FCC should be asked to withhold any action on GCI's preemption petition until the Commission has had an opportunity to address this new development and the other market structure issues raised in this proceeding. Also, the FCC should be placed on notice that the in-state market issues impact interstate services and that it is likely that the Commission will need the assistance/participation of the FCC in resolving the unique challenges that confront the delivery of both in-state and interstate services in Alaska.
2. Direct staff to promptly proceed to prepare an evaluation/analysis of the project for public comment.

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3. Hold hearings as soon as possible to address:

   a. Resale

   b. Unbundling of network elements

   c. Dispute resolution process

4. Direct AT&T Alascom, GCI, and others desiring to participate, collectively or individually, to submit for Commission consideration COLR plans following the guidelines proposed herein.

5. Petition the FCC to address in the FCC's ongoing universal service proceeding, the need for federal support for interstate interexchange access in rural Alaska. The circumstances facing Alaska are much more complex and daunting than those posed anywhere else. Alaska needs to be addressed separately in the forward looking cost models the FCC is now working on. The Commission needs to be directly involved in this process.

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I. OPENING THE LONG DISTANCE MARKET TO RESELLERS

Commenters agree that resellers now face "barriers to entry" in the Alaskan market.

> "The current arrangements in Alaska do not provide for effective carrier resale. . . . carrier resellers are economically coerced into purchasing from the retail tariff at full retail rates just like any other customer, the intent and spirit of a wholesale tariff has been violated" (Rural Coalition Group Comments, p. 6 & 7).

> "Vigorous competition in the Alaska IXC market and the efficient utilization of IXC facilities will result when resale carriers are able to obtain IXC services at rates based on a wholesale discount from the retail rates charged by the two facility based carriers" (Alaska Telephone Association Comments, p. 1 & 2).

> "The two dominant incumbent IXCs should be required to offer all of their services for resale - resale that provides a meaningful opportunity for an efficient reseller to provide profitable service to the retail market (business and residential). If the incumbent IXCs offer resale that does not provide meaningful resale opportunities, then AS 42.05 . . . . are all effectively rendered moot" (ATU-LD Comments, p. 2).

> "Intrastate wholesale offerings in Alaska have been nothing more than retail offerings from which a reseller can purchase services. Effective resale requires that wholesale offerings be distinct from their retail counterparts. While wholesale offerings will often be substantially similar in composition to that offered under retail, they must always be distinguished by lower wholesale pricing reflecting the avoided costs attendant to a wholesale relationship. Clearly, when the underlying carrier has optional calling plans or volumes discounts available at retail that result in average rates lower than wholesale rates for comparable call characteristics, effective resale would be undermined." (Unicom Comments and Proposed Regulations, p. 18).

Unicom has prepared regulations for resale that model the actual workings of the resale market in the lower 48 states.[1] The discount rate structures inherent in IXC contracts which are available throughout the lower 48 states include both baseline discounts from IXC retail rates and additional graduated or "progressive" discounts based on volume and increase progressively in conjunction with term and volume commitments. Neither AT&T Alascom nor GCI, Inc. now offer such wholesale rates to resellers in Alaska. Why should they? Both

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[1] Exhibit 1, Unicom, Inc. Comments and Proposed Regulations

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carriers collectively dominate the market and will continue to do so if they are allowed to continue to discriminate in favor of their own retail operations. While AT&T Alascom has for years opposed Unicom's efforts for meaningful opportunities for resale even it begrudgingly acknowledges that it is appropriate for the Commission to address resale.

> "It may be also appropriate to develop a new system of resale agreements that provides discounts from statewide-averaged retail rates on the basis of volume and term commitments by resellers" (AT&T Alascom Comments, p. 4).[2]

AT&T Alascom has, however, not provided a workable, or meaningful response. There is no commitment to offer wholesale rates to resellers. Wholesale offerings must be distinguished by lower than retail pricing reflecting the avoided costs attendant to a wholesale relationship. AT&T Alascom's and GCI's optional calling plans are the only means by which resellers can now enter the market. Effective resale cannot be sustained if resellers continue to be limited to reselling retail calling plans. Businesses and other large users who represent the bulk of the market (estimated to be in excess of 70% of the market), will purchase service directly from AT&T Alascom or GCI since the reseller has no available "avoidable" cost margin within which to compete.

Wholesale rates for retail calling plans must result in average rates that are lower than retail rates for there to be effective resale opportunities. There are no wholesale rates! Resellers do not have a meaningful opportunity to undertake and assume the customer service activities that the underlying carrier can avoid when a reseller resells its services. Consequently, resellers are limited to attempting to lure low end customers who cannot afford on their own to make the volume and term commitments that calling plans require.[3]

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[2] AT&T Alascom however, links its willingness to proceed to its ability to gain access and universal service reforms (i.e. a subsidy for IXC services) that it is seeking. These issues are not, as AT&T Alascom suggests, interrelated and dependent on one another. The Commission should not allow the development of a competitive resale market to be held hostage to AT&T Alascom's agenda.

[3] AT&T Alascom asserts that CustomNet has supplanted its traditional facilities wholesale tariff as the "service of choice" among resellers. (AT&T Alascom Comments, p. 20). The reality is that there is no choice. The facilities wholesale tariff requires carriers to purchase bundled and

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Unicom does not agree with AT&T Alascom's assertion that the picture gets worse for AT&T Alascom as the long distance affiliates of the rural LECs enter the market and draw customers away from AT&T Alascom.[4] To the extent the long distance affiliates of the rural LECs can resell AT&T Alascom's services, AT&T Alascom retains the resold traffic and the revenue for the use of its facilities and services. Resellers provide AT&T Alascom with the opportunity to avoid marketing and other costs by having a reseller, instead of itself, serve the customer.

AT&T Alascom and GCI, and any other facility-based carrier having twenty-five percent (25%) or more of the long distance market, should be required to have a wholesale tariff offering for resellers.[5] Effective resale requires that wholesale offerings be distinct from their retail counterparts. Reliance on the negotiation of resale agreements will not work.[6] Unicom's draft regulations will encourage a robust and competitive market by enabling resellers to resell all of the services of any facility-based carrier having twenty-five percent (25%) or more of the market at wholesale rates.

II. PROVIDING COMPETITORS WITH ACCESS TO UNBUNDLED NETWORK ELEMENTS

Commenters agree that competitors should have access to unbundled network elements.

> "A rationally developed wholesale tariff for services and unbundled IXC network elements sends the proper economic signals and fosters the optimum use of existing facilities". (ATA Comments, p. 5).

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inferior service. AT&T Alascom has "no" wholesale offering for resellers.

[4] AT&T Alascom Comments, p. 10.

[5] It should also come as no surprise that GCI has not been supportive of Unicom's efforts. When your goal is to "dominate" the entire market why would a company voluntarily provide resellers with a meaningful opportunity to compete with their own retail operations.

[6] One only needs to look at the massive record in U-96-31, Unicom's Complaint Against AT&T Alascom, to realize that the only workable solution to resale is a prescriptive approach including regulations and the filing of a resale tariff with wholesale rates.

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"GCI supports a policy that connections to an IXC network must occur at any technically feasible point" (GCI Comments, p. 11).

"Incumbent IXCs should be required to provide a wholesale tariff with unbundled network elements (UNEs) that include switching, transport, and billing records" (ATU-LD Comments, p. 3).

"There should be two categories (wholesale offerings): (1) Wholesale rates on the basis of retail rates less avoided cost, and (2) unbundled network elements (emphasis added). . . . . . The amount of unbundling should be consistent with the spirit of The Act to unbundle services offered by incumbent LECs. (Rural Carriers Group Comments, p. 22).

"ANS believes that AT&T Alascom should be required to offer unbundled network elements at their embedded costs. These requirements would allow an efficient reseller of prepackaged services and unbundled network elements to cover its costs and recover a profit (Alaska Network Services Comments, para. 3).

"Unicom's strategy for providing competitive service includes plans to build facilities for competing where it is economically feasible to do so. That feasibility, however, depends on the unbundling of the wholesale facilities tariffs of the carriers, AT&T Alascom and GCI, that now have facilities. This will allow Unicom, and other carriers, to pay only for facilities and services that are actually used and to interconnect with existing facilities for those network elements where it is feasible to use them. . . . . This element (DAMA Network Control Facilities Including Tandem Switching Equivalent Functions) needs to be unbundled so that competitors can interconnect its own earth stations to each other and to earth stations owned by AT&T Alascom or GCI. Also, this may encourage AT&T Alascom and GCI to work together to integrate DAMA systems to eliminate the double satellite hops that now occur for calls that need to be routed via both an AT&T Alascom and GCI DAMA system.." (Unicom Comments and Proposed Regulations, p. 11 - 12).

Unicom has drafted regulations that require AT&T Alascom, GCI, and any other facility-based carrier having twenty-five percent (25%), or greater, of the market to have a facility wholesale tariff that offers access to unbundled network elements (Exhibit 2, Unicom, Inc.'s Comments). The proposed regulations will facilitate a more competitive market by:

1. providing carriers with the ability to combine network elements with network elements owned or leased by the carrier to provide a complete network to offer services to end-users;

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2. having competitors be able to pay only for facilities and services that are actually used; and

3. updating AT&T Alascom's 1991 facilities wholesale tariff to reflect AT&T Alascom's current operations which have changed substantially with the acquisition of Alascom by AT&T and the deployment of new technologies and facilities (i.e. DAMA).[7]

III. FACILITIES RESTRICTION

The Commission has observed that duplicative facilities in rural locations place universal service and affordable rates "at considerable risk"[8] Thus, in addressing the facilities restriction, the Commission stressed the importance of the data that the GCI Demonstration Project would provide to its decision-making. In particular, the Commission observed:

> "The Commission intends to use the information gathered from GCI and AT&T Alascom during this demonstration project as the basis for evaluating the long term viability of facilities-based interexchange competition in rural Alaska. After the Commission has the data available, it will be better able to evaluate if and how its regulations on competition in telecommunications in Alaska should be modified."[9]

Similarly, the Staff opined

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[7] AT&T Alascom goes to great lengths to escape having to update its facility wholesale tariff and to provide unbundled network elements. Under the existing tariff carriers cannot interconnect at any technically feasible point (i.e. at a place other than Anchorage) and they must purchase bundled services. This places competitors in the position of having to offer inferior service and having to pay for the use of facilities and services that it does not need. Clearly, AT&T Alascom's bold assertion that lack of access to unbundled network elements does not present a barrier to competitive entry is nonsense (AT&T Alascom Comments, p. 19). Similarly, AT&T Alascom's argument that its ability to aggregate customer traffic makes it unnecessary to unbundle its network is make weight. Requiring AT&T Alascom and GCI to unbundle merely provides for a meaningful implementation of the competitive and interconnection mandates of the Telecommunications Act of 1996.

[8] APUC -- 10 APUC 407, 410, 411 (1990).

[9] APUC Docket U-95-38, Order 9, page 32.

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"the [GCI] experiment will allow the Commission to collect data that would otherwise never be available to the Commission about the cost and benefits to consumers....GCI's demonstration project will create an opportunity to see what impact the improved DAMA technology has on telecommunications use in the affected communities. This information is necessary to assess the overall costs to users.... In Short, there are good and sufficient reasons for the Commission to define criteria for the success or failure of GCI's demonstration only after it accumulates enough experience with the impacts, costs and benefits to make this decision."[10]

These observations are particularly important in light of GCI's original claims for the objective of its Demonstration Project--and its recent admissions. At the outset of the Project GCI maintained that:

"The overall objective is to demonstrate that the integrated system developed by GCI can provide high quality, reliable, state-of-the-art telecommunications services to rural Alaska at competitive rates without requiring external subsidies (emphasis added) (GCI Response to Data Request, 8/18/95, p. 1, Docket U-95-38).[11]

In a stunning about-face, however, GCI has recently conceded that:

"...the provision of interexchange service to rural villages should be supported by a universal service fund, with a payment of cents per minute for each minute that originates or terminates in a rural location" (GCI Comments, p. 14).

GCI's admission comes on top of AT&T Alascom's own requests for financial relief stemming in large measure from GCI's insistence on installing a second MTS earth station in the Demonstration communities:

"AT&T Alascom's situation is further aggravated by the arrival of competition in the Bush. ... the simultaneous arrival of DAMA and competition in the 56 DAMA demonstration sites has been a "double whammy" for AT&T Alascom's

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[10] Staff Response to Petition For Reconsideration by United Utilities, U-95-38, December 11, 1995. The Commission's decision to approve GCI's Bush Demonstration project was based in part on the testimony of Staff's expert witness, Ben Johnson:

"...Dr. Johnson stated that technological advances appear to have reduced the costs of competition in rural areas. He did not perform any cost studies to confirm the reduction in costs but argued that with approval of GCI's demonstration project, data could be collected regarding the actual costs of the proposed technology" (Order 9, U-95-38, P. 19).

[11] Dana Tindall, Senior Vice President of Legal and Regulatory Affairs reasserted GCI's objective of offering competitive rates without requiring external subsidies during the October 30 - 31, 1995 hearing in U-95-38. She also stated that, "GCI will bear the financial burden for the project in the event of its failure" (Order 9, U-95-38, p. 7 - 11). Indeed, GCI went so far as to assert that it did not intend to raise its rates as a result of the demonstration. (Order 9, U-95-38, p. 12).

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> Bush revenues, which were already inadequate. For example, in Village X, AT&T Alascom installed DAMA facilities. In 1997, AT&T Alascom's revenues from Village X declined by $449,000 .... In Village Y, AT&T Alascom installed DAMA and suffered a decline of $924,000 in revenue. The DAMA costs for a typical location exceed $200,000 (AT&T Alascom Comments, p. 10).
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> * * * *
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> "If an effective, competitively neutral system of support for Bush service is not implemented, AT&T Alascom will not be able to afford future improvements to its Bush facilities beyond the DAMA deployment undertaken to date and the deployment of the new satellite scheduled to replace Aurora II.... Its shareholders and ratepayers, however, cannot fairly be asked to be the sole source of financial support..." (AT&T Alascom Comments, p. 11).[12]

The bad news is that both GCI and AT&T Alascom are apparently losing money and find it necessary to seek external subsidies. The good news is that the facilities restriction, which is still in place in over 100 other bush locations, effectively contains the problem brought on by GCI's uneconomic duplication of facilities to the 56 demonstration sites.

The Commission can now address the market structure issues in a comprehensive fashion without jeopardizing universal service. In this regard, Unicom agrees with AT&T Alascom that:

> "It would be wrong and unfair to change one part of the package, the facilities restriction, without making appropriate changes in the other parts" (AT&T Alascom p. 6).

In short, the time is now ripe for the Commission to conduct the analysis of the facilities restriction which it has committed to accomplishing. Specifically, Unicom is in agreement with ATA that the Staff should be directed to prepare an analysis of GCI's Bush Demonstration Project by an early date certain (say, August 30), and offer that analysis for public comment.

Furthermore, the Commission should immediately notify the FCC of these recent developments and request that it be given ample opportunity, prior to the FCC's acting on GCI's preemption petition, to address all of the market structure issues, including the financial

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[12] AT&T Alascom's actual experience is clearly not what Staff's expert witness, Ben Johnson, envisioned: "Dr. Johnson asserted that the limited scope of this project should limit the risks to AT&T Alascom and not materially affect its rates" (Order 9, U-95-38, p. 21).

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dilemma that AT&T Alascom and GCI are facing.

Besides the impact on costs and rates for local subscribers, Unicom agrees with the Rural Carriers Group ("RCG") that

> "Even new technologies bring new problems. For example, it is the experience of members of the RCG that the DAMA systems installed by AT&T Alascom and GCI are not interoperable. While DAMA can theoretically eliminate the "double hops" as the system now exists, calls can not be moved between GCI's system and AT&T Alascom's system without first being transferred back to Anchorage, thereby recreating the double hop" (Rural Carriers Group Comments, p. 19).

This factor, too, should be examined by Staff.

Section 253(b) of the Telecom Act requires that restrictions on the provision of service be "necessary to protect, among other things, universal service and the public safety and welfare, and be "competitively neutral." Unicom's view is that the data derived from the Demonstration Project confirm that the facilities restriction remains necessary in order to avoid harm to universal service and the public welfare. The carrier-of-last-resort inquiry which Unicom urges the Commission to undertake in Section V of these Comments offers a vehicle for ensuring that the restriction also meets the statute's competitive neutrality test.

IV. GCI'S PROPOSAL WILL UNDERMINE GEOGRAPHIC AVERAGING OF LONG DISTANCE RATES

The Commission's existing policies require long distance carriers to provide service on a statewide basis and that carriers geographically average rates including the use of the same mileage bands and the same time of day rating periods (3 AAC 52.370). These policies are consistent with the Act.

> "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, interexchange services (emphasis added) and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas (Section 254 (b)(3)).

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Unicom respectfully requests that the Commission not change its requirements that long distance carriers offer services statewide and that they must geographically average rates using the same mileage bands and the same time of day rating periods. These requirements are fundamental to universal service, consistent with the Act, and are imposed on a "competitively neutral" basis.

GCI has proposed to offer discounts in IXC rates to customers who receive local service from the same provider.[13] GCI has also proposed to eliminate the requirement that all carriers use the same mileage bands and the same time of day rating periods.[14] Unicom opposes both of GCI's proposals since they would undermine the benefits that geographically averaged rates offer to all citizens.

GCI would like the Commission to take an approach similar to that of the FCC's that permits carriers to have little more than a basic rate structure and allows carriers to have special rates only in specific areas. Such an approach will not work for in-state long distance service in Alaska. Unlike the lower 48 states, the toll traffic within Alaska is much different. Alaska has only three urban centers whose combined population is but a fraction of the population of a single major urban center in the lower 48 states. Also, Alaska has hundreds of remote/small communities with populations of less than 1,000 people.

The offering of lower long distance rates exclusively to an Anchorage customer does not allow a rural customer to have access to the same lower rates. This results in rural customers paying higher rates for the same service and is contrary to the goal expressed in the Act that low income consumers and those in rural areas have access to long distance services at rates that are reasonably comparable to rates charged for similar services in urban areas (Section 254 (b)(3)). Alaska's geography and population cannot sustain reasonably comparable rural/urban rates if carriers are allowed to discriminate based upon where a customer lives.

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[13] GCI Comments, p. 10 - 11.

[14] GCI Comments, p. 10.

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The requirement that carriers use the same mileage bands and the same time of day rating periods allows customers to compare the offerings of competing carriers. GCI asserts that the majority of consumers now use flat rate plans without time or distance restriction. Nevertheless, these plans follow the same mileage and distance structure providing a "baseline" standard that benefits consumers and has regulators and competitors working off the same sheet of music. Consumers are better able to compare competing carriers' offerings--GCI's proposal would hinder such comparisons.

V. CARRIER OF LAST RESORT OBLIGATIONS AND EXTERNAL SUPPORT

A carrier of last resort (COLR) should continue to be designated for every Alaskan community i.e. where service is now being provided.[15] COLR obligations can be shared amongst significant/dominant facility based carriers that have twenty-five percent (25%), or more of the market. AT&T Alascom has also requested that the Commission adopt a COLR procedure.

> "The second reform that should accompany lifting of the facilities restriction is adoption of a procedure for allocating COLR responsibility for low-density, high-cost areas among competing carriers. It is unfair and anticompetitive to require AT&T Alascom to be responsible for the entire cost" (AT&T Alascom Comments, p. 7).

AT&T Alascom has also said:

> "Rates are being driven toward cost by competition in the urban areas and by nationwide economic forces while, at the same time, AT&T Alascom alone is required to serve as carrier-of-last-resort ("COLR") and provide high quality service at geographically averaged rates in all of the high-cost areas its competitors choose to avoid" (AT&T Alascom Comments, p. 5).

> ". . . AT&T Alascom no longer has any way to keep its high-density urban rates artificially high to subsidize its Bush network" (AT&T Alascom Comments, p. 10).

> " If . . . . support for Bush service is not implemented, AT&T Alascom will not be able to afford future improvements to its Bush facilities beyond the DAMA deployment undertaken to date and the deployment of the new satellite scheduled

[15] Unicom, Inc. Comments, p. 26.

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to replace Aurora II. . . . Alascom has already spent more than $30 million on its DAMA project. The replacement satellite, whose primary function is to serve Bush Alaska, will cost in the neighborhood of $112 million to launch and $11.3 million per year to operate " (AT&T Alascom Comments, p. 11).

Unicom agrees that a COLR procedure is needed and that a more equitable sharing of the cost of rural/bush service may be warranted.[16] However, there are better alternatives other than the surcharge approach being advocated by AT&T Alascom and GCI. AT&T Alascom and GCI have offered only one solution--"a per-minute surcharge on each originating in-state minute".[17] A preferable approach would be one where AT&T Alascom, GCI, and other industry participants cooperatively work together to deliver service via a single, non-duplicative facility, to those communities that cannot support duplicative facilities. The current situation, i.e. uneconomic duplicative facilities, has resulted in inferior service (double satellite hops over two systems that are not interoperable) and excessive costs. Instead of addressing the real problem, i.e. duplication of facilities and efforts, both carriers want to be bailed out by imposing a surcharge (i.e. what may be viewed by some as a "tax") on every toll call.[18]

Service to most of rural Alaska is satellite-based. Satellites cost hundreds of millions of dollars to launch and to operate. Satellites typically have a life of ten years and require advanced planning of anywhere from three to five years. The complexities, i.e. long planning horizons and cost, inherent in rural service make it prudent that COLR responsibilities be clearly defined and equitably assigned. AT&T Alascom, GCI, and other carriers (like Unicom and its affiliate United Utilities), collectively, or if this is not possible, individually, should be

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[16] AT&T Alascom did report a profit of $25.5 million on revenues of $235 million for 1997 (Anchorage Daily News, June 25, 1998, Section F).

[17] One concern is that the surcharge would result in an urban versus rural political debate and that essential services would end up being hotly contested. Such a controversy now exists with the FCC's Schools and Libraries program whose funding was recently cut by 50%. House Speaker Newt Gingrich said he wants Congress to turn the E-rate program into a block grant program managed by states rather than the FCC.

[18] Is GCI reneging on its promise that GCI would assume the "full" financial responsibility for its duplicative bush facilities?

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required to submit a plan for COLR that emphasizes quality and efficient rural service via the use of a single facility where it is uneconomic to duplicate facilities.

An objective of the COLR plan would be to have all facilities-based long distance carriers share, on a "competitively neutral" basis, the financial, if not also the operational, obligation to serve high cost areas. COLR costs could then continue to be recovered, as they are now for interstate and intrastate services, via geographically-averaged rates. Such a plan would be "competitively neutral" since all facility-based long distance carriers would be required to participate. Carriers also would be discouraged from constructing duplicative facilities where they are not warranted. And there would be no need to impose a surcharge on ratepayers.

AS 42.05.800 expresses the legislature's finding that modern, affordable, efficient and universally available local and long distance telephone service is essential to the people of Alaska. Uneconomic duplication of facilities is not efficient and, as evidenced by both GCI's and AT&T Alascom's comments, unfavorably impacts the availability of modern and affordable service universally to all Alaskans.

The Commission should order that COLR plans meet the following minimum requirements, i.e:

1. not rely on external subsidies.
2. not undermine geographically averaged rates.
3. advance modern and quality long distance services.
4. utilize a single facility where it is uneconomical to duplicate facilities.
5. provide for an equitable, pro rata and competitively neutral sharing of financial and operational responsibilities.
6. provide for every community (i.e. every location now having service) to have a COLR.

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7. establish minimum financial, operating, and safety standards for COLR carriers.[19]

Regarding the imposition of a surcharge, Unicom offers the following:

1. The FCC has said that federal universal service support will not be available for interexchange or toll service.

"Regarding GCI's argument that interexchange service should not be supported because it is a competitive service, we emphasize that universal service support will be available for access to interexchange service (emphasis added), but not for the interexchange or toll service (FCC Docket No. 96-45, released May 8, 1997, para.77).[20]

The FCC's position raises two questions. First, should the APUC petition the FCC to reconsider its position that federal universal service funds not be used for interexchange or toll service in Alaska? Bush facilities originate and terminate interstate traffic. Bush satellite earth stations and satellites are licensed/approved by the FCC. The circumstances, i.e. competition unfavorably impacting revenue sources for funding bush service, exist for interstate as well as for state services. If AT&T Alascom and GCI are seeking a state subsidy why are they not seeking interstate subsidies as well? If the FCC will not provide an interstate subsidy - why not? The Commission should note that the FCC has frozen the allocation of AT&T Alascom's costs to the interstate jurisdiction at 86% (FCC Docket 83-1376, Order released October 29, 1993, para. 89). Does this also need to be revisited?

Secondly, the FCC has said that it will fund universal service support for access to interexchange service. Here is an opportunity to receive federal dollars to help lessen the cost of interexchange service in rural Alaska. The Commission should undertake an initiative to "maximize" federal universal service support for interexchange access services. This initiative

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[19] For example, it would not be prudent to assign COLR responsibilities to a carrier that could not demonstrate that it possessed the financial ability to continue to make lease payments for satellite transponder space.

[20] GCI opposed interstate support for Alaskan long distance service. Now GCI wants support just from instate consumers for duplicative facilities.

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